

# **A Guide to Industrial Insurance Benefits**

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**For Employees of Self-insured Businesses**



Department of  
**LABOR AND  
INDUSTRIES**



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## **Labor and Industries Service Locations**





## Introduction

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This guide to industrial insurance benefits is for employees of self-insured businesses. It explains the benefits available to you if you are injured on the job or develop an occupational disease. These benefits vary, depending on the injury. They can include medical treatment related to your on-the-job injury or occupational disease, partial wage replacement and other services to aid you in your recovery and return to work.

This guide summarizes what happens when you file a claim, and how you can help make the process work smoothly for you. It also explains your rights and responsibilities, and tells you what choices you have if you disagree with a decision. This booklet, however, is not a legal interpretation of the law.

The Washington Department of Labor and Industries (L&I) published this guide. L&I is the agency responsible for implementing the state's industrial insurance law. Information is current as of the publication date. Changes that occur will be included in subsequent editions.

For more information, contact your employer or L&I's Self-insurance Section at 360-902-6901 or PO Box 44892, Olympia, WA 98504-4892. Local L&I offices can also answer your questions. You'll find telephone numbers for these offices on the last page of this guide.





## What Is Industrial Insurance?

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An injured worker is entitled to no-fault accident and disability coverage whether covered by L&I's Washington State Fund or a self-insured employer. This "industrial insurance" covers medical expenses and pays a portion of wages lost while a worker recovers from a workplace injury.

Your employer is self-insured. This means the company you work for has adequate resources to cover the costs of an on-the-job injury. L&I has oversight authority.

As an employee of a self-insured business, you have the same rights and responsibilities other workers have. However, the way you obtain medical and other necessary services differs somewhat.

To file a claim for benefits, you'll work with your employer or an appointed employer representative instead of L&I. This guide will help you obtain the health care, financial and vocational services you might need during your recovery.





## What to Do if You Are Injured at Work

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Don't delay. Injuries must be reported within one year. Occupational diseases must be reported within two years after receiving written notice from a doctor that the condition exists and is work-related.

1. **Report your injury or exposure to your employer as soon as possible.** Your employer needs to know about your condition and what caused it. Without knowledge of your work-related injury or occupational disease, your employer may ask L&I to deny your claim. When we receive an employer's request to deny a claim, we review all available information before allowing or denying the claim.
2. **File a claim for benefits** by submitting a "Self-Insurer Accident Report" to your employer or your employer's representative. The form is available from your employer. Since you must prove your injury or disease is job related, you should file right away. Someone else may file a claim on your behalf if you are unable to do so.
3. **Communicate with your doctor.** Make sure your doctor knows your injury or disease is job-related and that a "Physician's Initial Report" is completed on your behalf. The report must be sent to your self-insured employer or his or her representative.
4. **Stay in touch with your employer.** Work closely with your employer or employer's representative. Notify your employer immediately if your address changes to avoid delays in receiving benefit checks or other correspondence.
5. **Cooperate with all reasonable requests** from your doctor, employer and others authorized to assist in your treatment and recovery.





## Your Benefits

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### Health Care Services

When your claim for work-related injury or occupational disease is approved, your employer will pay your medical bills while you recover.

#### **What health care services and costs are covered?**

All doctor, hospital, surgical, pharmacy and other health care services necessary for treatment of your work-related injury or occupational disease are paid directly by your employer. Health care services are provided until your work-related injury has stabilized and reached a point where further recovery is not expected.

Other services may include, but are not limited to, medication, emergency ambulance service, special or home nursing care, dental repair, convalescent center care, crutches, braces, artificial limbs, glasses and hearing aids.

Some automobile and home modification costs are covered for workers suffering amputation or paralysis. These workers also receive lifetime prosthesis maintenance, including replacements needed because of normal wear and tear of the prosthesis or related physical changes.

#### **May I choose my doctor?**

Yes. You may choose any doctor who is qualified to treat your condition and is reasonably convenient to you. Qualified doctors include: medical, osteopathic, chiropractic, naturopathic and podiatric physicians; dentists; optometrists; and ophthalmologists.

#### **May I change doctors once my claim is filed?**

You may change doctors or ask for a consulting opinion from another doctor if you feel you are not making progress with your current doctor. However, to ensure proper payment of medical bills, you must get approval from your employer or his or her representative *before* changing doctors or seeking another opinion.

#### **Who pays my medical bills?**

Health care providers should send their bills to your employer or your employer's representative for payment. Usually, there are no out-of-pocket expenses to you. However, if your eligibility for benefits is in doubt, a provider may bill you. In that case, keep a copy of your invoice. If your claim is approved, you can send it to your employer or his or her representative for reimbursement.

### Time-Loss Compensation (Wage-replacement Benefits)

If you are unable to work as a result of your injury or occupational disease, you will be paid a portion of your regular wages. These time-loss compensation payments will not provide you with the same income you earned when you were working.

#### **How do I qualify for time-loss compensation?**

Your doctor must certify that your condition is work-related and that you are unable to work. Your doctor also must notify your employer that you are unable to work as a result of the injury.



**How long do I have to be off work to qualify for time-loss compensation benefits?**

These benefits are paid if you are unable to work for more than the three days immediately following the date of your injury. Injured workers are not compensated for those first three days unless they are still unable to work on the fourteenth day following the injury. (You may be eligible to receive time-loss benefits for the first three days, if you returned to work, found you could not continue working, then remained off work through the fourteenth day.)

**When will my first benefit check come in the mail?**

Your employer must pay you within 14 days of being notified of your claim.

**How long will I receive time-loss compensation benefits?**

You will receive time-loss payments approximately twice a month as long as your doctor verifies that your condition prevents your return to any work. You and your doctor must keep your employer informed of your progress. Without this information, your time-loss compensation check could be delayed or stopped.

**Will I ever have to return time-loss compensation benefits?**

If your claim ultimately is rejected because your employer found that your injury or disease was not work-related (or if new information shows your check should have been for a lower amount), you will be required to refund all or part of the money you received. Also, time-loss compensation must be refunded if it is later found that you were able to work or did work days for which you received benefits.

## How Time-loss Compensation Is Calculated

The amount of your time-loss benefit check is 60 to 75 percent of your total wages and certain benefits, depending on your marital status and number of dependents you have when you are injured. These benefits cannot exceed specified limits based on a percentage of the state's average wage. (The state's average wage varies; it is established by the Department of Employment Security on July 1 of each year.) These benefits are based on a standard formula established by law.

**Establishing your gross income**

The following is taken into account to establish your gross income at the time of injury:\*

- Your wages earned before taxes, including income from a second job.
- Your medical, dental and vision benefits.
- The reasonable value of room and board, housing, fuel or similar considerations received from your employer as part of your income.
- Any bonus you received as a part of the contract of hire with the employer at the time of injury.
- Tips you reported to your employer for federal income tax purposes.

If your work is exclusively seasonal, essentially part-time or intermittent, your monthly wage is determined by averaging the total wages earned, including overtime pay and tips, from all employment in any 12 successive calendar months preceding the injury that most fairly represents your employment pattern.

\* If you have an occupational disease, gross income is based on the date you were last exposed, first required medical treatment or became disabled, whichever came first.



### **Possible effects on Social Security benefits**

You should report to your employer any Social Security payments you receive. In some cases, you may receive both time-loss compensation and Social Security disability or retirement benefits. However, if the combined benefits total more than the maximum amount allowed under a formula contained in the federal Social Security law, your time-loss compensation payments will be reduced by the amount that exceeds the maximum.

In no case will your combined benefit amount be reduced to less than the amount you would receive on time-loss alone.

### **Time-loss compensation for asbestos-related occupational diseases**

There are a number of people suffering asbestos-related occupational diseases who, during the course of their employment, have worked for several businesses covered by federal, state or maritime industrial insurance laws. In these cases, it often is difficult to determine the responsible employer. Because medical treatment often is urgent, the Department of Labor and Industries will provide benefits to those who would be eligible under state law.

To be eligible, there must be objective clinical findings to prove that you have an asbestos-related occupational disease. Also, your work history must indicate an injurious exposure to asbestos fibers while you worked for a covered employer within Washington State.

Once the Department of Labor and Industries has determined which employer, or employers, are liable, we may pursue repayment of benefits from that employer or from the appropriate insurance program.

## **Other Benefits**

### **Refunds for traveling to a doctor or job training appointment**

When your employer authorizes you to travel for the following reasons, you can be reimbursed for out-of-pocket travel expenses:

- If you must travel more than 10 miles from home to get adequate health care services.
- If you need fitting of a prosthetic device.
- If you must travel to attend an independent medical examination.
- If it is necessary in your approved vocational retraining plan.

When necessary for your approved travel, your costs for mileage, food and lodging will be reimbursed at rates established by the Department of Labor and Industries. These rates may be less than your actual cost. You also can be reimbursed for other transportation costs, such as parking or bridge or ferry tolls. Receipts are required for all expenses except parking expenses under \$10.

When you request travel reimbursement, please use the "Injured Worker Travel Expense Voucher" available from your employer, your employer's representative, or a local L&I office. You must submit the form within one year of the trip and clearly indicate the date, destination and reason for travel. Mail your completed "Injured Worker Travel Expense Voucher" to your employer or his/her representative.

### **Property damage refunds**

In some cases, your benefits may cover the cost of personal clothing, footwear or protective equipment that is damaged or lost because of a workplace injury. The same is true if those items are damaged or lost because of emergency treatment offered on the scene. Receipts for repair or replacement of articles are required. Copies of receipts should be attached to the bill and sent to your employer or his/her representative.





## Help Getting You Back to Work

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### Modified Jobs

Depending on the severity of the injury or the type of work, you may have difficulty returning to work right away. Many times your employer can find a lighter-duty job for you. (Your doctor must review the job description and approve the duties.) Questions that will be asked to determine whether a modified job is feasible for you include:

#### **Can your regular job be temporarily modified?**

In some cases, the physical demands of a job can be changed temporarily to accommodate physical restrictions. This may include part-time or lighter-duty work.

#### **Can your regular job be permanently modified?**

Employers are sometimes able to permanently change the physical demands of the job so that it is tailored to your physical restrictions.

#### **Can you return to a new job with your employer?**

A different permanent job, in keeping with your physical restrictions, is sometimes available with your same employer.

If your wages on light duty drop by more than 5 percent, you may be eligible for benefits to supplement your lower income.

Your employer and L&I require you to actively participate in all return-to-work activities while you are receiving benefits.

### Employability Assessments

Some workers have injuries that make it impossible to return to work with their employer. However, they often have skills to do a different kind of work. If this is the case, your employer may refer to you a vocational counselor for an “employability assessment.” The counselor can match your experience, education, knowledge, interests, age, skills and physical and mental capabilities to the job market in your area.

Your employer uses this assessment to determine whether:

- You are employable in your area's job market and not eligible for further vocational services, **OR**
- You are eligible for further vocational services. A vocational counselor then will develop a vocational plan with the goal of helping you become **employable**, **OR**
- You are not able to work and are not eligible for further vocational services.

You may have to take a job that pays less than what you made when you were injured. Your time-loss payments cannot continue if you are employable (unless you are participating in a vocational plan). L&I's Self-insurance Section will approve or disapprove your employer's finding of your employability.

### Vocational Plans

Vocational plans are short-term programs aimed at helping disabled workers find new work. Your employer will decide if you are eligible for vocational services.

By law, vocational services are limited to a maximum of 52 weeks and cannot exceed \$4,000 in total costs. For this reason, vocational programs usually cannot pay tuition for long-term college programs. However, they may cover the cost, for example, of a college course combined with some on-the-job training, or a vocational or technical program that takes less than 52 weeks.

If you qualify, you and your vocational counselor will draft a vocational plan that will list specific services you will need to become employable again. It also will show the responsibilities you, your counselor, your employer and others will have as you work toward this goal.

The plan, signed by you, your counselor and your employer, is submitted to L&I's Self-insurance Section.

While you are actively participating in vocational rehabilitation services, you will continue to receive time-loss compensation benefits. If you fail to participate, your medical and time-loss compensation benefits may be suspended.

If you have a concern about how your vocational plan is progressing, you may send a written request for a plan review to L&I's Self-insurance Section. Be sure to state the reasons for your request.

### **Preferred Worker Program**

If you need to change employers to gain suitable work, you may qualify for *Preferred Worker* status. Ask your vocational counselor about the Preferred Worker program.

### **Protesting Decisions about Vocational Benefits**

L&I's Self-insurance Section approves or disapproves your employer's decisions about your employability or your vocational plan. If you disagree with the decisions L&I makes, you have the right to protest. If you decide to take this step, you must send a written complaint to the Vocational Dispute Resolution Office, Department of Labor and Industries, PO Box 44880, Olympia, WA 98504-4880.

*You must write to L&I within 15 days after receiving the notice with which you disagree. Explain your concerns in detail.* The Vocational Dispute Resolution Office will investigate your complaint and help resolve the dispute. Its recommendations then will go to the director of the Labor and Industries, who will make the final decision.





## Disability Awards, Pensions and Survivor Benefits

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### Awards: Permanent Partial Disabilities

If your injury or occupational disease caused permanent loss of bodily function, you will receive a permanent partial disability award. The amount you receive for any physical loss is established by the Legislature and does not include compensation for pain and suffering. There are two types of permanent partial disabilities:

**Specified disabilities:** Some disabilities have awards that are already set by law. These are easily quantified losses, such as the loss of a leg, foot, toe, arm or finger by amputation.

**Unspecified disabilities:** These disabilities include every other type of impairment caused by an on-the-job injury or occupational illness, including the partial loss of function to a limb.

#### Rating a worker's unspecified disability

The degree of a partial loss of function is determined by a disability rating. These ratings are conducted either by the doctor who treated you (the "attending physician"), or by one or more independent medical examiners using established medical standards and guidelines. Normally, ratings are performed after all services have been completed, you are medically stable and no further treatment is appropriate.

You will not jeopardize a permanent partial disability award by working. You should return to your job as soon as your doctor releases you for work. Any permanent partial disability award you receive is based on the degree of damage suffered, not on whether you can work.

### Pensions: Total Permanent Disabilities

If your accident results in the loss or total paralysis of both legs or arms, one leg and one arm, or a total loss of eyesight, you are eligible for a pension by law, even if you are able to return to work.

If vocational and medical evaluations determine that your injury prevents you from ever becoming gainfully employed, you may be paid a monthly pension for life. However, this type of "non-statutory" pension may not be payable if you are able to return to work.

Pension benefits are paid monthly. They are based on the amount of time-loss compensation to which you are entitled. As with time-loss compensation benefits, the amount you are eligible to receive depends on factors such as your wages, marital status, number of dependents, health care benefits, Social Security benefits and the state's average wage at the time of your injury. In some cases, your pension benefit amount may be reduced for previously paid permanent partial disability awards.

While these benefits will come directly from L&I, your employer is responsible for funding the benefits.

#### Your pension options

If you are granted a pension, you can choose one of these two options:

- **Option 1:** You can choose a full pension. However, if you die of causes unrelated to the work-related injury or disease, your survivors will not be eligible for pension payments.
- **Option 2 & 3:** You can choose a reduced pension. If you die of causes unrelated to the work-related injury, your designated beneficiary will continue to receive pension

payments. There are two types of reduced pensions. If you take a slightly reduced pension, your beneficiary will receive half the monthly amount you receive. If you choose to further reduce your pension, your beneficiary will continue to receive the same payments you received.

If you have questions about pension benefits, call the pension adjudicator for self-insured businesses at 360-902-6917.

(If your claim was received before July 1, 1986, and you were granted a pension, your eligible survivors will receive survivor benefits when you die, *regardless of the cause of death*.)

### **Supplemental Pension Fund Assessment and Deductions**

The Supplemental Pension Fund pays for cost-of-living increases for individuals receiving time-loss compensation or pensions. Employers must pay into this fund. They also can deduct up to half of the assessed rate from their employees' wages. Your employer will notify you whether or not a deduction will be taken from your pay.

## **Survivor Benefits**

### **Monthly pension payments**

If you are the surviving spouse of someone who dies from a work-related injury or occupational disease, you will receive a monthly pension. The amount you will receive is based on the formula used for setting time-loss compensation payments.

### **Immediate cash payment and burial benefits**

These benefits include an immediate cash payment amounting to 100 percent of the state's average monthly wage, a calculation made by the Department of Employment Security and adjusted each year. Also, L&I will pay burial expenses of up to 200 percent of the state's average monthly wage.

### **Dependent benefits**

The worker's dependent children (at the time of the injury) are paid a monthly pension. Payments continue until age 18, or age 23 if they are full-time students at an accredited school. A dependent child who is an invalid continues to receive monthly pension payments beyond age 18 as long as he or she is a dependent.

If there is no spouse or dependent children, certain relatives who can prove they were financially dependent on the worker may be eligible for survivor benefits.

### **Remarriage**

When a surviving spouse remarries, benefits stop. Instead, the surviving spouse may receive a lump sum settlement or, by not taking the settlement, keep the right to receive monthly pension payments again if the marriage ends because of death or divorce.





## Your Legal Rights and Responsibilities

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### Closing Your Claim

Three factors must be considered before your claim is closed:

- Your medical condition.
- Your ability to work based on your injury.
- Any permanent impairment you may suffer due to your injury.

A doctor or doctors will address these issues throughout the course of your claim. Your claim will not be closed until L&I's Self-insurance section has sufficient medical information that shows you do not require further medical treatment, you are able to work and whether you are entitled to an award for permanent impairment.

If you are entitled to an award for permanent impairment, you will receive a cash settlement when your claim is closed.

### Protesting a Decision about Your Claim

Every claim decision requires the use of judgment, and you may not always agree. If you believe a decision is wrong, you may protest it to the Department of Labor and Industries. You also have the right to appeal directly to the Board of Industrial Insurance Appeals (Board) without first protesting to L&I. You do not need to hire an attorney for a protest or appeal, but you may if you choose to do so.

Before you take formal action, however, it may help to talk with your employer or an adjudicator in L&I's Self-insurance Section. If you remain dissatisfied, you may protest in writing.

#### **Protest to the Department of Labor and Industries**

You must send a written protest within 60 days of receiving the decision you disagree with. Try to explain in detail why you think the decision is unfair, and supply any additional information you think may help us in our evaluation. Mail your protest to Department of Labor and Industries, Self-insurance Section, PO Box 44892, Olympia, WA 98504-4892.

We will review your claim and send you a written decision in response to your protest. If you disagree with this decision you may appeal in writing to the Board in Olympia.

#### **Appeal to the Board after protest to L&I**

You must send your appeal to the Board within 60 days of receiving L&I's decision. Write to the Board of Industrial Insurance Appeals, 2430 Chandler Ct. SW, PO Box 42401, Olympia, WA 98504-2401. The Board's phone number is 360-753-6823 or 1-800-442-0447 (in-state toll-free line).

The Board, which is independent of L&I, conducts hearings on claim issues that cannot otherwise be settled to the satisfaction of you, your employer or the department. The Board issues a written decision about your case after personal arguments and testimony have been taken. This decision may be appealed to a Washington State Superior Court. For more detailed information, ask the Board for its pamphlet, *Your Right to be Heard*.

### If You Need Legal Assistance

You are not required to have an attorney to protest any L&I decision. However, you may want an attorney's advice before appealing an L&I decision to the Board of Industrial Insurance Appeals.

Attorney fees are limited by law to a maximum of 30 percent of any increased benefit you receive as a result of your protest action. Because this maximum fee may not always be reasonable, either L&I or the Board will set a reasonable fee for your attorney's services upon request.

To request a fee review from L&I, write to Director of Labor and Industries, PO Box 44001, Olympia, WA 98504-4001. To request a fee review from the Board, write to Board of Industrial Insurance Appeals, PO Box 42401, Olympia, WA 98504-2401

## **Reopening a Claim**

If objective medical evidence shows the condition caused by your injury or disease has worsened and requires additional health care attention, your claim may be reopened. If you are applying for medical coverage only, you may make this request at any time. In most cases, we will make a decision within 90 days.

However, if you also wish to apply to reopen your claim for time-loss compensation or permanent partial disability benefits, you must make your request within seven years of the date your claim was first closed. (If your claim is for an eye injury, you have 10 years to apply for a reopening.)

Forms to apply to reopen your claim are available through your doctor's office. If your doctor doesn't have the form, you can request one by contacting an L&I office. You'll find telephone numbers for these offices at the end of this booklet.

Complete the reopening application and send it to L&I's Self-insurance Section, PO Box 44892, Olympia, WA 98504-4892.

## **Rights Cannot Be Waived**

An injured worker may not waive his or her rights under the Workers' Compensation Act.

## **Protection from Employer Discrimination**

If you believe your employer has discriminated against you because you filed a claim, or expressed an intent to file, you can submit a discrimination complaint by writing to L&I Investigations, PO Box 44277, Olympia, WA 98504-4277.

You must act within 90 days. If we find your complaint is valid, we will initiate legal action against your employer. Options for settlement include rehiring or reinstatement with back pay.

## **Claim Paperwork**

Your employer or your employer's representative maintains a complete copy of your claim file. You can request a copy of the file if you need to do so. The first copy will be provided free of charge to you or your representative. All new material, not previously provided, also will be provided free of charge. However, your employer is entitled to charge a fee for copying any materials already provided.

## **Giving False Information**

Any person claiming benefits under the Workers' Compensation Act who knowingly gives false information relating to their claim will be guilty of a Class C felony when the claim involves \$500 or more. When the claim involves less than \$500, a person knowingly giving false information shall be guilty of a gross misdemeanor.

## **When Injuries Are Caused by a "Third Party"**

In Washington, you cannot sue your employer or coworkers when a work-related injury or disease occurs. However, you can sue another company or individual if they are responsible.





An example might be a company that manufactured a defective product that caused your injury. Such an individual or company is called a "third party."

In these cases, you may choose to initiate legal action yourself to recover damages. If so, you may wish to consult an attorney. Or, you may have your employer initiate action on your behalf. In either case your employer may recover his/her claims costs from the settlement.

Your employer's insurance costs may be affected by your injury. For this reason, your employer may decide to take legal action even if you don't.

Initiating third-party legal action will not jeopardize your right to industrial insurance benefits. You'll receive all the benefits for which you qualify, regardless of the outcome.

If you believe a third party may have been responsible for your injury or occupational disease, contact your employer.

### **The Basic Health Plan**

You and your family may be eligible for health-care coverage through the Washington Basic Health Plan. Although these benefits do not cover workplace injuries and are not affiliated with workers' compensation coverage, the plan offers affordable basic health coverage to qualified families. You must be a Washington resident and not eligible for Medicare.

Call 1-800-826-2444 for more information.





## Labor and Industries Service Locations

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### **Region 1 Northwest Washington**

Bellingham	360-647-7300
Everett	425-290-1300
Mount Vernon	360-416-3000

### **Region 2 King County**

Bellevue	425-990-1400
Seattle	206-515-2800
Tukwila	206-835-1000

### **Region 3 Pierce County/ Peninsula**

Bremerton	360-415-4000
Port Angeles	360-417-2700
Tacoma	253-596-3800

### **Region 4 Southwest Washington**

Aberdeen	360-533-8200
Longview	360-575-6900
Tumwater	360-902-5799
Vancouver	360-896-2300

### **Region 5 Central Washington**

East Wenatchee	509-886-6515
Kennewick	509-735-0100
Moses Lake	509-764-6900
Okanogan	509-826-7345
Walla Walla	509-527-4437
Yakima	509-454-3700

### **Region 6 Eastern Washington**

Colville	509-684-7417
Pullman	509-334-5296
Spokane	509-324-2600

